

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	Criminal Action
)	No. 13-10200-GAO
)	
DZHOKHAR A. TSARNAEV, also)	
known as Jahar Tsarni,)	
)	
Defendant.)	
)	

BEFORE THE HONORABLE GEORGE A. O'TOOLE, JR.
UNITED STATES DISTRICT JUDGE

JURY TRIAL - DAY THIRTY-THREE
EXCERPT
TESTIMONY OF JAMES FLOYD

John J. Moakley United States Courthouse
Courtroom No. 9
One Courthouse Way
Boston, Massachusetts 02210
Monday, March 16, 2015
2:08 p.m.

Marcia G. Patrisso, RMR, CRR
Official Court Reporters
John J. Moakley U.S. Courthouse
One Courthouse Way, Room 3510
Boston, Massachusetts 02210
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Mechanical Steno - Computer-Aided Transcript

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WITNESSES FOR THE
GOVERNMENT:

JAMES FLOYD

By Ms. Pellegrini

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P R O C E E D I N G S

* * *

MS. PELLEGRINI: Good afternoon, your Honor. The government calls James Floyd.

JAMES FLOYD, duly sworn

THE CLERK: Please state your name, spell your last name for the record, keep your voice up and speak into the mic.

THE WITNESS: My name is James Floyd, F-L-O-Y D.

DIRECT EXAMINATION

BY MS. PELLEGRINI:

Q. Good afternoon, Mr. Floyd.

A. Hi.

Q. Where were you born?

A. I was born in Florence, South Carolina.

Q. And at some point did you move to Massachusetts?

A. About five years ago.

Q. And in April of 2013, where were you living?

A. I was living at 56 Laurel Street in Watertown.

Q. And who was living there with you?

A. My wife and my three-week-old son.

Q. And on the night of April the 18th going into the early-morning hours of April 19th, what do you recall happening?

A. I was sleeping on the couch. My son was downstairs, as was our routine. Sometime after midnight or so I heard, you

1 know, some loud banging outside. I hopped up, peeked out the
2 window, saw some gunfire, which was -- and then went and
3 scooped up my son and took him up to the second floor, to the
4 back of the house.

5 When I got to the top of the stairs, my wife stopped and,
6 you know, she was frantically asking what was going on. I told
7 her I didn't know. I went and set the baby down and went out
8 to our bedroom window, which was on the second floor, and
9 started looked out the window at what was going on.

10 Q. Mr. Floyd, let's go back a little bit. The house at 56
11 Laurel, single-family, two-family?

12 A. It's a single-family.

13 Q. And the front yard, what's that like?

14 A. It kind of has more of a side yard. And we have a vinyl
15 fence mostly around -- you know, that completely encloses the
16 side of the yard. There's a pear tree in the yard, which is in
17 the back, and then a big plum tree at the front of the yard,
18 you know, the corner of the yard.

19 Q. All right. And how would you describe the neighborhood in
20 which you live?

21 A. It's a mixed neighborhood, very quiet neighborhood.
22 Mixture of older, young people, mixture of single families and
23 renters. It's pretty diverse.

24 Q. And with respect to the closest -- or the side of the
25 yard, how would you describe the houses on Laurel Street?

1 A. I think we have a pretty decent-size yard for the area.
2 You know, I have a whole yard, which is one of the reasons we
3 moved there. I want to say we're a fifth of an acre, is the
4 size of our plot. You know, a nice size for this area, I
5 think.

6 Q. All right. So I'd like to show you what's in evidence
7 already as Exhibit 772.

8 MS. PELLEGRINI: Mr. Bruemmer, if you would bring that
9 up, please.

10 Q. And do you see this diagram in front of you, Mr. Floyd?

11 A. Yes.

12 Q. All right. And I'm going to enlarge this part right about
13 here. Can you point out -- your screen is a touch screen in
14 front of you. If you touch it with the pad of your finger, you
15 can make a circle, you can have an arrow. Can you point out to
16 the jury where you were living in April of 2013?

17 A. Right here (indicating).

18 Q. All right. So you've made a little yellow mark on the
19 second house in. I actually think it is marked as 56 Laurel
20 Street. And what I'm going to point to right here, is that the
21 tree you were talking about, or one of them?

22 A. Yes; that's the plum tree.

23 Q. All right. And so this part looks out onto Laurel Street.
24 Is that correct?

25 A. Yes.

1 Q. All right. Now, so when you said that you were downstairs
2 and you said that had been part of your routine, whose routine
3 when you're sleeping downstairs?

4 A. Our family routine. We had a three-week-old. We tried to
5 get through the nights as best we could with as much sleep as
6 possible. So she would feed the baby, go upstairs, try to get
7 as much sleep as she could. I'd give the baby a bottle
8 whenever it woke up and then go upstairs, and hopefully one of
9 us got a decent night's sleep.

10 Q. And the living room area in which you said you were
11 resting on the couch -- is that right?

12 A. Yes.

13 Q. -- is that front -- the front part of your house, does
14 that come up to the front?

15 A. The actual room extends from the front to the back. Front
16 to the back. The couch was probably right -- sort of in the
17 middle of the room.

18 Q. And the noises that you heard that woke you up, how would
19 you describe those?

20 A. Well, at first I thought it could have just been some
21 fireworks going off. It was -- you know, it woke me up out of
22 a sleep, so I didn't really have any bearings about me at
23 first. And so I looked outside and I could see -- you know, I
24 could see, you know, guns firing. I could mostly -- at that
25 point I could see people to my right, which would have been to

1 the west and sort of underneath where the tree is. But I
2 didn't look for long. I saw that it was, you know, pretty
3 serious, and I wanted to get my kid back to the back of the
4 house upstairs in his crib.

5 Q. All right. And so once you looked out and you saw what
6 you saw, you took the baby and went upstairs?

7 A. Right. Put the baby in the crib in the back of the house.
8 And then my wife and I went and couldn't help but look out of
9 the second-floor window in our bedroom.

10 Q. All right. Now, from the second floor, is there any
11 obstruction of your view by the -- it's a plum tree, right?

12 A. It's a plum tree. At the time it was pretty -- it was
13 blooming pretty good and so I couldn't really see a lot
14 of -- so, yes, there was some obstruction to the view as I
15 looked down and to the right. Once I was downstairs, I could
16 kind of see -- I didn't have to look through the tree. But
17 once I was on the second floor, it was kind of hard to see
18 through the trees at exactly what was going on down there.

19 Q. All right. So when you first looked out, and you
20 said -- well, tell me what you saw.

21 A. When I was downstairs and I looked out, I saw guns firing
22 and people screaming. And this was to my right. And then I
23 basically stopped and got the kid and I ran upstairs. So I
24 didn't see much at that time. Then when we got upstairs, we
25 looked for a more extended period.

1 Q. All right. But when you were downstairs, could you tell
2 if anybody was in uniform at that time that you saw outside?

3 A. The only thing I could say for sure is I saw blue lights.

4 Q. Blue lights?

5 A. So there was that assumption, that someone was in uniform.
6 But which one, who was firing, no, I couldn't see any of that.

7 Q. When you got upstairs and you were able to look out the
8 second-floor window, what did you see?

9 A. So out of the second-floor window, I could see a lot
10 better and it -- to my left and -- which I guess would be
11 facing east, so --

12 Q. If you can mark that on the map which is still in front of
13 you, 772?

14 A. So somewhere around this area --

15 Q. Okay.

16 A. -- I could see there was two cars, both facing this
17 direction, I guess which would have been east. I could see two
18 cars and I could see two individuals firing back to the west.

19 Q. Can you --

20 A. Firing.

21 Q. Can you tell what kind of car was involved here?

22 A. I saw there was a sedan, and it was easy for me to see one
23 of them was a black Mercedes SUV just because of the
24 pretty -- it has a pretty distinctive shape to it.

25 Q. And where were these two individuals in regard to the

1 location of the Mercedes?

2 A. Between them. Between them taking cover. They would pop
3 up and out from time to time, and then go back. Seemingly,
4 they had things with them and they kept going back to the
5 ground to grab things.

6 Q. What do you mean?

7 A. It seemed like maybe they had a bag of things that they
8 were going to to either -- I don't know whether it was
9 ammunition. I know at several points I saw a fuse being lit
10 and, you know, what I then found out were bombs being thrown.
11 When actually they threw them, you know, you could hear -- sort
12 of throwing them like a baseball, you'd hear the clink, clink,
13 clink and then an explosion. I definitely saw four of those
14 things happen, but only two I remember actually exploding.

15 Q. And with respect to the two individuals, was there any way
16 that you could differentiate between the two?

17 A. No.

18 Q. Were both individuals doing the same type of thing or was
19 one doing one? What happened?

20 A. Well, while they were taking cover between the vehicles,
21 it was really tough to see what was going on. It was just kind
22 of a barrage of gunfire in both directions. And also, you
23 know, they would pop up from time to time and, you know, come
24 out. And, you know, I saw them throw the bombs. Sort of --
25 that kind of went on for an extended period of time. And at

1 some point one of them came out from that cover and started
2 moving forward, which would be west. And once he kind of came
3 out from the car, he kind of seemed to get into some sort of
4 really close-range gunfight. I didn't see who he was doing
5 that with, but he was obviously shooting -- exchanging fire
6 with someone. And I'm not sure, you know, the exact, you know,
7 sequence of things, but at some point the --

8 MR. WATKINS: I'm going to object, your Honor.

9 THE COURT: New question?

10 MR. WATKINS: Yes.

11 THE COURT: Let's have a new question.

12 BY MS. PELLEGRINI:

13 Q. What's the next thing you saw after you saw the person
14 start down the street?

15 A. The next thing I saw was -- I looked back and I could see
16 the individual that was still behind the car pull out something
17 larger. It seemed to me that it was in a bookbag. It seemed
18 to be -- light a fuse. And where the other -- and then he kind
19 of took the bookbag like this, and it seemed like it was heavy
20 just by the way he was throwing it. And he seemed to throw it
21 out this way. Actually --

22 Q. Let me just stop you right there, Mr. Floyd. So for the
23 record, you're indicating with your arm outstretched and
24 starting down low?

25 A. Yes. He was standing up or -- from what I could remember,

1 and he grabbed the bookbag by the -- you know, one of the
2 bookbag straps and seemed to launch it as far as he could,
3 which wasn't, you know, very far, from what I could tell. The
4 bomb did not make it very far -- or the thing did not make it
5 very far before it blew up.

6 Q. All right. And when it blew up, what happened?

7 A. It was far and away much bigger explosions than the other
8 ones, than the other smaller explosions that happened, and it
9 was a very, very bright light. Blinding light. We ducked
10 down. A couple of pictures came off of our wall. And we
11 looked back out and the scene was very smokey. And at that
12 point we saw the person that was still by the cars get into his
13 car and make a -- somewhat of a three-point turn and turn his
14 car, the Mercedes, heading east, and floored it. I mean, just
15 really floored it.

16 Q. What could you hear?

17 A. Well, just heard the engine roar loudly and then it seemed
18 like he was heading straight toward where everyone was
19 gathered, including the other person who had been tackled to
20 the ground at that point. My wife made a shriek because it
21 looked to her and us that he was going straight for, you know,
22 the whole crowd of police officers there. And we heard
23 a -- you know, it was kind of like a thud and we saw the
24 headlights -- the taillights, excuse me -- raise up off the
25 ground. He had obviously -- obviously hit something and run

1 over it. Then lots of gunfire. But he somehow made it -- the
2 vehicle somehow made it down through Dexter and up the street.

3 Q. Mr. Floyd, let's go back just a little bit. You said that
4 when you first looked back and you heard gunfire. Could you
5 see the exchange of gunfire?

6 A. Yes.

7 Q. All right. I'm talking now about the two individuals who
8 were by the Mercedes. What, if anything, could you see either
9 one doing?

10 A. Just, I mean, other than firing, not much. There was just
11 a lot of activity, you know, so there wasn't constant firing.
12 There would be firing followed by a brief delay where it seemed
13 like they would be digging back into whatever they had at their
14 feet.

15 MR. WATKINS: Objection to "seems like."

16 THE COURT: I'm sorry. I didn't hear you.

17 MR. WATKINS: I'm saying -- could we have another
18 question?

19 THE COURT: I think he's still answering the same
20 question. Go ahead.

21 THE WITNESS: So I just saw, you know, these two
22 individuals were firing and launching -- well, when I was
23 downstairs I didn't see any of the things thrown, only saw the
24 gunfire at that point. And I was not --

25 BY MS. PELLEGRINI:

1 Q. Let me stop you there. When you said you only saw
2 gunfire, with respect to the Mercedes, where did you see the
3 gunfire?

4 A. It was coming from behind the Mercedes.

5 Q. Could you tell who was firing the -- any weapon from
6 behind the Mercedes?

7 A. I couldn't distinguish one from the other at that point,
8 no.

9 Q. And then when the individual came out from behind the
10 Mercedes, let me -- so this person walked down Laurel Street?

11 A. Right. Walked down Laurel Street to about -- you know, I
12 would say about right here (indicating). You know, somewhere
13 in this area. And stood there for a while and exchanged
14 gunfire with something that I could not see.

15 Q. All right. So you could not see whether or not there were
16 police officers in this location at that time from your --

17 A. I couldn't tell.

18 Q. You could not tell?

19 A. I couldn't tell. Right.

20 Q. And the other individual remained where, if you saw?

21 A. Behind the Mercedes.

22 Q. By the way, how could you differentiate between the
23 gunfire and -- when you talked about being -- fuses being lit?

24 A. Well, you know, I've shot guns in my life. I've been
25 around guns, so I know what that's like. And then, you know,

1 I've seen fuses being lit at least on, you know, fireworks.
2 It's very distinguished -- it's a very easy thing to see what a
3 fuse going looks like: It's slow and has sparks flying off it
4 versus a gunfire, which is, you know, muzzle blast.

5 Q. Now, when you indicated that the Mercedes was heading in
6 the direction of people who were down the street, were you able
7 to see at that point who was down the street?

8 A. No. What I saw was the suspect who wasn't -- or the
9 individual that wasn't by the car. He started to just
10 seemingly just walk in this direction, just oddly, just not
11 firing, just walking, almost maybe walking fast, straight
12 towards where, you know, kind of all the police activity was
13 down here. Well, that doesn't --

14 Q. That's okay. So you've made an arrow a little past your
15 house and a line?

16 A. I probably should change that. That's --

17 Q. I can do that. Go ahead.

18 A. So there was -- most of the police cars seemed to be
19 around here.

20 Q. All right.

21 A. And then someone started walking from -- he started
22 walking from this way, that way. And at that point I did see a
23 shadow come out from behind this yard, through the gate, tackle
24 him to the ground.

25 Q. All right. When you say "come out from behind this yard,"

1 you made no indication on the map. Can you tell us where
2 you're speaking --

3 A. This yard right here.

4 Q. Okay. So a shadow comes out, intercepts a person walking
5 down the street?

6 A. Tackles him to the ground. I saw other figures jump on
7 top and looked back and saw someone, the other guy, get in the
8 car and do some sort of three-point turn and --

9 Q. Can I stop you there, Mr. Floyd? What do you mean by a
10 three-point turn?

11 A. Well, the car was pointing east. So he had to turn the
12 car around in the middle of the road to make it back so it was
13 going west. So I don't remember if he pulled forward first and
14 then backward first, but basically he did that kind of turn
15 that you have to do in the middle of a street when you're going
16 to turn around.

17 Q. All right. And what's the next thing that you remember?

18 A. He just went very, very fast, seemingly as fast as he
19 could go, straight to where it seemed like the people had been
20 tackled to the ground. So there was also police vehicles in
21 the street or other vehicles in the street, so that also
22 happened to be the same area where, you know, he had gotten
23 tackled.

24 Q. All right. And once the vehicle made contact with
25 the -- well, did you know who the vehicle made contact with,

1 from your vantage point?

2 A. No, we didn't know. Our assumption was it made contact
3 with everyone and that it was bad. We didn't think there was
4 any way anyone could have gotten up and moved.

5 Q. All right. And tell me, what did you see the vehicle do
6 specifically?

7 A. It -- well, you could distinctly see the headlights raise
8 up like it had hit something and bounced over it, and you could
9 hear a thud, like a ka-koo (indicating), and then just lots and
10 lots of gunfire.

11 Q. Now, Mr. Floyd, as you sit here today, is it your memory
12 that, in fact, the person you saw do the underhand movement and
13 throw the container that made the big blast was the same person
14 who drove the Mercedes back down the street toward the police
15 officer?

16 A. Absolutely without question.

17 Q. I'm sorry. Say it again.

18 A. Without question it was the same person.

19 MS. PELLEGRINI: Thank you. I have no further
20 questions.

21 MR. WATKINS: No questions.

22 THE COURT: No questions? All right, Mr. Floyd.
23 Thank you. You may step down.

24 (The witness is excused.)

25 * * *

C E R T I F I C A T E

I, Marcia G. Patrisso, RMR, CRR, Official Reporter of the United States District Court, do hereby certify that the foregoing transcript constitutes, to the best of my skill and ability, a true and accurate transcription of my stenotype notes taken in the matter of Criminal Action No. 13-10200-GAO, United States of America v. Dzhokhar Tsarnaev.

/s/ Marcia G. Patrisso
MARCIA G. PATRISSE, RMR, CRR
Official Court Reporter

Date: 3/25/15